



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,643	02/25/2002	Willi Kaiser	070191-0322 (31-HL-6088)	3659

7590 03/01/2006

Joseph D. Kuborn
ANSRUS, SCEALES, STARKE & SAWALL
100 EAST WISCONSIN AVENUE, SUITE 1100
MIWAUKEE,, WI 53202

EXAMINER

LE, LINH GIANG

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/082,643	Applicant(s) KAISER ET AL.	
	Examiner Linh-Giang Le	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>052802</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. The communication is in response to the application filed 25 February 2002.

Claims 1-27 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirshner (6,322,504).
4. As per claim 1, Kirshner teaches a method for determining the presence of a condition of a patient's heart (Kirshner; Abstract), the method comprising the steps of:

Reading at least one parameter value of a bio-medical signal of a patient
(Kirshner; Fig. 8(2) and Col. 14, lines 60-65); and

Determining the likelihood of the presence of a condition of a patient's heart based on at least one parameter value (Kirshner; Col. 12, lines 8-13), the step of determining including the step of comparing at least one parameter value of the bio-

Art Unit: 3626

medical signal with all corresponding parameter values stored in a database (Kirshner; Col. 14, lines 34-36 and Col. 17, lines 29-57).

5. As per claim 2, Kirshner teaches the method wherein the bio-medical signal comprises an ECG of the patient (Kirshner; Fig. 8(2) and Col. 14, lines 60-65).

6. As per claim 3, Kirshner teaches the method wherein the step of determining includes the step of calculating a comparison result for a condition based on the comparison of at least one parameter value of the patient with the corresponding parameter values stored in the database (Kirshner; Col. 17, lines 49-57). Examiner notes that the "risk factor" is the value to be calculated and compared.

7. As per claim 4, Kirshner teaches the method wherein the step of calculating includes the step of determining whether the comparison value for the condition is TRUE (Kirshner; col. 13 lines 20-24). Examiner interprets "positive risk factors" to be the same as determining whether the comparison value for a condition is TRUE.

8. As per claim 5, Kirshner teaches the method wherein the step of determining further includes the step of calculating a probability value representing the likelihood of the presence of a condition based on the comparison results for the condition (Kirshner; Col. 14, lines 32-35).

Art Unit: 3626

9. As per claim 6, Kirshner teaches the method further comprising the step of entering at least one parameter value of the patient, prior to the reading step (Kirshner; Col. 10, lines 25-39).

10. As per claim 7, Kirshner teaches the method wherein at least one parameter value of the patient is entered via a browser (Kirshner; Col. 2, lines 24-27).

11. As per claim 8, Kirshner teaches the method determining the presence of a condition of a patient's heart, the method comprising the steps of:

Entering at least one parameter value of an ECG of a patient (Kirshner; Fig. 8(2) and Col. 14, lines 60-65);

Comparing at least one parameter value of the ECG of a patient with all corresponding parameter values stored in a database (Kirshner; Col. 16, lines 4-36);

Calculating a comparison result associated with a condition relating to the corresponding parameter values stored in the database (Kirshner; Col. 17, lines 49-57);
and

Calculating a probability value representing the likelihood of the presence of a condition based on the comparison result (Kirshner; Col. 14, lines 32-35).

12. Claims 9 and 10 repeat the limitations of claim 7 and 4 respectively and the reasons for rejection are incorporated herein.

Art Unit: 3626

13. As per claim 11, Kirshner teaches the method wherein the step of calculating the probability value includes the step of determining the frequency of occurrence of the condition based on the comparison results (Kirshner; Col. 16, lines 4-36).

14. Claim 12 repeats the limitations of claim 1 and the reasons for rejection are incorporated herein. Kirshner further teaches using a computer program for performing the method described in claim 1 (Kirshner; Col. 2, lines 28-30).

15. Claims 13-16 repeat the limitations of claims 2-5 and the reasons for rejection are incorporated herein.

16. Claim 17 repeats the limitations of claim 1 and the reasons for rejection are incorporated herein. Kirshner further teaches a system comprising a server and a computer program for performing the method described in claim 1 (Kirshner; Col. 5, lines 24-26).

17. Claims 18-22 repeat the limitations of claims 2-5 and the reasons for rejection are incorporated herein.

18. Claims 23-27 repeat the limitations of claims 17-22 and the reasons for rejection are incorporated herein.


Art Unit: 3626

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh-Giang Michelle Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LLe


C. LUKE GILLIGAN
PATENT EXAMINER